H. R. 931

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 1995

Mr. Jefferson (for himself, Mr. McCrery, Mr. Rangel, Mr. Livingston, Mr. Hayes, Mr. Johnston of Florida, Mr. Oberstar, Mr. Fields of Louisiana, Mr. Tauzin, Ms. McKinney, Mr. Conyers, Mr. Ford, Mr. Lewis of Georgia, Mr. Reynolds, Mr. Frost, Mr. Towns, Mr. Scott, Mr. Ackerman, Mr. Dixon, Mr. Payne of New Jersey, Mr. Thompson, Mr. Clay, Ms. Brown of Florida, Mrs. Meek of Florida, Mr. Tucker, Mr. Watt of North Carolina, Mr. Neal of Massachusetts, Mr. Levin, Ms. Eddie Bernice Johnson of Texas, and Mr. Baker of Louisiana) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the "Low-Income Housing
- 5 Preservation Act of 1995".

1 SEC. 2. 15-YEAR RECOVERY PERIOD.

2	(a) GENERAL RULE.—Subsection (c) of section 168
3	of the Internal Revenue Code of 1986 (relating to applica-
4	ble recovery period) is amended—
5	(1) by striking "as provided in paragraph (2)"
6	in paragraph (1) and inserting "as otherwise pro-
7	vided in this subsection",
8	(2) by redesignating paragraph (2) as para-
9	graph (3), and
10	(3) by inserting after paragraph (1) the follow-
11	ing new paragraph:
12	"(2) Low-income housing.—In the case of
13	any residential rental property which is part of a
14	qualified low-income housing project (as defined in
15	subsection (i)(14)), the applicable recovery period
16	shall be 15 years."
17	(b) Qualified Low-Income Housing Project.—
18	Subsection (i) of section 168 of such Code is amended by
19	adding at the end the following new paragraph:
20	"(14) Qualified low-income housing
21	PROJECT.—
22	"(A) In general.—For purposes of this
23	section, the term 'qualified low-income housing
24	project' means any project for residential rental
25	property if—

1	"(i) such project is assisted under a
2	specified HUD program,
3	"(ii) 50 percent or more of the resi-
4	dential units in such project—
5	"(I) in the case of a project de-
6	scribed in clause (i) or (ii) of subpara-
7	graph (C), are occupied by individuals
8	whose income (at the time of their ini-
9	tial occupancy in such project) was
10	less than 80 percent of the area me-
11	dian gross income (as of such time),
12	or
13	"(II) in the case of a project de-
14	scribed in clause (iii) or (iv) of sub-
15	paragraph (C), are units with respect
16	to which rental assistance is provided
17	under section 8 of the United States
18	Housing Act of 1937 (42 U.S.C.
19	1437f),
20	''(iii) such project was originally
21	placed in service at least 10 years before
22	the taxpayer acquired an interest in such
23	project,
24	"(iv) such project is substantially re-
25	habilitated,

1	"(v) the taxpayer acquired such tax-
2	payer's interest in such project by pur-
3	chase, and
4	"(vi) such project was not previously
5	placed in service by the taxpayer or by any
6	person who was a related person (as de-
7	fined in section $42(d)(2)(D)(iii)$) with re-
8	spect to the taxpayer as of the time pre-
9	viously placed in service.
10	"(B) Denial of double benefit.—A
11	project shall not be treated as a qualified low-
12	income housing project if the taxpayer (or any
13	other person holding an interest in such
14	project) claims any benefits with respect to
15	such project under—
16	"(i) section 42 (relating to low-income
17	housing credit),
18	"(ii) section 47 (relating to rehabilita-
19	tion credit),
20	"(iii) the Low-Income Housing Pres-
21	ervation and Resident Homeownership Act
22	of 1990 (12 U.S.C. 4101 et seq.), or
23	"(iv) the Emergency Low-Income
24	Housing Preservation Act of 1987 pursu-
25	ant to section 604 of the Cranston-Gon-

1	zalez National Affordable Housing Act (12
2	U.S.C. 4101 note).
3	"(C) Specified hud programs.—For
4	purposes of subparagraph (A), a project is as-
5	sisted under a specified HUD program if such
6	project was financed by a loan or mortgage
7	which—
8	"(i) is insured or held by the Sec-
9	retary of Housing and Urban Development
10	under section 221(d)(3) of the National
11	Housing Act (12 U.S.C. 1715/(d)(3)) and
12	bears interest at a rate determined under
13	the proviso of section 221(d)(5) of such
14	Act,
15	"(ii) is insured, assisted, or held by
16	such Secretary or a State or State agency
17	under section 236 of such Act (12 U.S.C.
18	1715z-1),
19	"(iii) is insured or held by such Sec-
20	retary under section 221(d)(3) of such Act
21	and receiving assistance under section 8 of
22	the United States Housing Act of 1937
23	(42 U.S.C. 1437f), or

1	"(iv) is insured or held by such Sec-
2	retary under section 221(d)(4) of the Na-
3	tional Housing Act.
4	"(D) Substantially rehabilitated.—
5	"(i) In general.—For purposes of
6	subparagraph (A), a project is substan-
7	tially rehabilitated if the amount of the re-
8	habilitation expenditures with respect to
9	such project during the 24-month period
10	beginning on the date the taxpayer ac-
11	quired his interest in such project equals
12	or exceeds 10 percent of the aggregate ad-
13	justed bases (as of the beginning of such
14	24-month period) of the residential rental
15	property which is part of such project.
16	"(ii) Rehabilitation expendi-
17	TURES.—
18	"(I) In general.—For purposes
19	of clause (i), the term 'rehabilitation
20	expenditures' means amounts charge-
21	able to capital account and incurred
22	for property (or additions or improve-
23	ments to property) of a character sub-
24	ject to the allowance for depreciation
25	in connection with the rehabilitation

1	of a building. Such term shall not in-
2	clude the cost of acquiring the build-
3	ing (or any interest therein).
4	"(II) Special rule.—An ex-
5	penditure may be taken into account
6	only if it benefits the low-income units
7	in the project at least in proportion to
8	the total number of units in such
9	project which are low-income units.
10	For purposes of the preceding sen-
11	tence, the term 'low-income units'
12	means units with respect to which the
13	requirements of subparagraph (A)(ii)
14	are met.
15	"(E) Income determinations.—For
16	purposes of subparagraph (A), income of indi-
17	viduals and area median gross income shall be
18	determined as provided in section $142(d)(2)(B)$.
19	"(F) PURCHASE.—For purposes of sub-
20	paragraph (A), the term 'purchase' has the
21	meaning given to such term by section
22	179(d)(2); except that such term shall not in-
23	clude any acquisition where the basis of the
24	property acquired is determined in whole or in

part by reference to the basis of other property

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held at any time by the person acquiring property. "(G) TREATMENT OF UNITS OCCUPIED INDIVIDUALS WHOSE INCOMES RISE AND LIMIT.— "(i) IN GENERAL.—Except as vided in clause (ii), notwithstanding and property.	D BY BOVE pro- n in-
3 "(G) Treatment of units occupied 4 Individuals whose incomes rise at 5 Limit.— 6 "(i) In general.—Except as	BOVE pro- n in-
4 INDIVIDUALS WHOSE INCOMES RISE AI 5 LIMIT.— 6 "(i) IN GENERAL.—Except as	BOVE pro- n in-
5 LIMIT.— 6 "(i) IN GENERAL.—Except as	pro- n in-
6 "(i) In general.—Except as	n in-
•	n in-
7 vided in clause (ii), notwithstanding a	
	of a
8 crease in the income of the occupants	
9 low-income unit above the income lin	nita-
tion applicable under subparagraph (A)(ii),
such unit shall continue to be treated	as a
low-income unit if the income of such	occu-
pants initially met such income limita	tion.
14 "(ii) Next available unit mus	Т ВЕ
15 RENTED TO LOW-INCOME TENANT IF	· IN-
16 COME RISES ABOVE 140 PERCENT OF	7 IN-
COME LIMIT.—If the income of the	occu-
pants of the unit increases above 140	per-
cent of the income limitation appli	cable
under subparagraph (A)(ii), clause (i)	shall
cease to apply to any such unit if any	resi-
dential unit in the project (of a size	com-
parable to, or smaller than, such uni	
occupied by a new resident whose in	

exceeds such income limitation. In the case

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1	of a project described in section
2	142(d)(4)(B), the preceding sentence shall
3	be applied by substituting '170 percent' for
4	'140 percent' and by substituting 'any low-
5	income unit in the project is occupied by a
6	new resident whose income exceeds 40 per-
7	cent of area median gross income' for 'any
8	residential unit in the project (of a size
9	comparable to, or smaller than, such unit)
10	is occupied by a new resident whose in-
11	come exceeds such income limitation'.
12	"(H) Recapture rules.—
13	"(i) Substantially rehabilitation
14	REQUIREMENTS.—If the requirements of
15	subparagraph (D) are not satisfied with re-
16	spect to any project—
17	"(I) such project shall not be
18	treated as a qualified low-income
19	housing project for any period (includ-
20	ing periods before the close of the 24-
21	month period set forth in subpara-
22	graph (D)(i)), and
23	"(II) the statutory period for the
24	assessment of any deficiency attrib-
25	utable to the failure of the project to

meet such requirements shall not ex-1 2 pire before the date prescribed by section 6501 for the assessment of a de-3 ficiency for the taxable year in which the 24-month period set forth in sub-6 paragraph (D)(i) ends. 7 "(ii) Cross Reference.— "For treatment of subsequent failure to meet other requirements after initial qualification, see paragraph (5) of this subsection." SEC. 3. EXEMPTION FROM PASSIVE LOSS LIMITATIONS. 9 Section 469 of the Internal Revenue Code of 1986 10 (relating to limitation on passive activity losses and cred-11 its) is amended— 12 (1) by redesignating subsections (j), (k), (l), 13 and (m) as subsections (k), (l), (m), and (n), respec-14 tively, and 15 (2) by inserting after subsection (i) the follow-16 ing new subsection: "(j) \$50,000 Offset for Certain Low-Income 17 Housing Activities.— 18 19 "(1) IN GENERAL.—Subsection (a) shall not 20 apply to that portion of the passive activity loss for 21 any taxable year which is attributable to rental ac-22 tivities with respect to residential rental property 23 which is part of a qualified low-income housing

project (as defined in section 168(i)(14)).

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1	"(2) Dollar limitation.—The aggregate
2	amount to which paragraph (1) applies for any tax-
3	able year shall not exceed \$50,000 (\$25,000 in the
4	case of a separate return by a married individual).
5	"(3) Coordination with subsection (i).—
6	This subsection shall be applied before the applica-
7	tion of subsection (i)."
8	SEC. 4. MINIMUM TAX TREATMENT.
9	(a) GENERAL RULE.—Paragraph (1) of section 56(a)
10	of the Internal Revenue Code of 1986 (relating to depre-
11	ciation deduction) is amended—
12	(1) by redesignating subparagraphs (C) and
13	(D) as subparagraphs (D) and (E), respectively, and
14	(2) by inserting after subparagraph (B) the fol-
15	lowing new subparagraph:
16	"(C) Special rule for certain low-in-
17	COME HOUSING PROJECTS.—In the case of resi-
18	dential rental property which is part of a quali-
19	fied low-income housing project (as defined in
20	section 168(i)(14))—
21	"(i) the depreciation deduction with
22	respect to 50 percent of the adjusted basis
23	of such property shall be determined as
24	provided in subparagraph (A), and

1	"(ii) the depreciation deduction with
2	respect to the other 50 percent of such ad-
3	justed basis shall be determined under the
4	method applicable in computing the regu-
5	lar tax.''
6	(b) Conforming Amendment.—Clause (i) of sec-
7	tion 56(g)(4)(A) of such Code is amended by inserting be-
8	fore the period at the end the following: "or, if applicable,
9	the rules of subsection (a)(1)(C)".
10	SEC. 5. EFFECTIVE DATE.

The amendments made by this section shall apply to 11 12 property placed in service after December 31, 1995.